



UNITED STATES PATENT AND TRADEMARK OFFICE

Me

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,850	09/11/2000	John R. Coffee	FMS/130	6046

27557 7590 03/25/2004

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
----------	--------------

3629

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/659,850

Applicant(s)

COFFEE ET AL.

Examiner

Michael J Fisher

Art Unit

3629

MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-82 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Art Unit: 3629

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1,3,4,7-11,14,15,19-20,22,24,25,28-32,34-38,41,42,44,46-56,58-73,75,76,78,79,81 and 82 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,611,755 to Coffee et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent includes the same limitation except in more precise form. Specifically, the "...location aware business logic... to use said location information to trigger events or to tag events, messages, or other data" as claimed in the patent would correspond to "...a plurality of sensors for measuring parameters related to the usage, function, operation, location, systems or cargo of the truck..." As is more fully related in the following rejection under 35 U.S.C. 102(e), the broader claims of the instant application read on the more limited claims in the patent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1,3,4,7-11,14,15,19-20,22,24,25,28-32,34-38,41,42,44,46-56,58-73,75,76,78,79,81 and 82 are rejected under 35 U.S.C. 102(e) as being anticipated by Coffee et al. (Coffee)

The applied reference has common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

As to claims 1,22,44,59 and 66, Coffee discloses a wireless gateway for connecting mobile and remote assets to business enterprises through multiple wireless networks (fig 1, network hubs 1 and 2), location aware business logic for sending and receiving location information (GPS), the business logic would inherently provide a common interface and protocol for handling the location information and enabling applications as Coffee discloses these as working together (claim 1). Coffee further

Art Unit: 3629

discloses the business applications as being served over the Internet (20 in fig 1), such Internet would, inherently, be accomplished through a browser.

As to claims 3,24, the mobile asset is shown to be a vehicle with a wireless navigation (GPS) and sensor device (claim 1).

As to claims 4,16,25,37,38,70,76,78,82, the data is shown to be transmitted in large, less frequent data packets (abstract lines 17-19), as the time interval is shown to be repeated, the reports would be followed up.

As to claims 7,8,14,15,28,29,34-36,68,69, the arrival at different sites is monitored by dispatchers and managers(claim 1).

As to claims 9,30 dispatchers can issue dispatch orders (claim 38).

As to claims 10,19,31,41,67,79 there is means for deriving work order status from reported site arrival (the sensors automatically detect each of the events in the sequence of events of the truck, claim 1).

As to claims 11,32, the job site is recognized as being active for a preset time period (When a job is finished the job site would no longer be active and therefore, it would not be tracked).

As to claims 20,42,,52,,53,65,72,73 the location means detects site location of an event (col 9, line 34, map matching and further, the software is shown to show the assets as icons on a map on the computer monitor, col 5, lines 39-44) the information is shown to be updated and would further initiate function in other applications (such as knowing that the pour has started, as claimed in claim 1).

Art Unit: 3629

As to claims 46,60,61,62, the core business logic is shown as using the Internet (20 in fig 1) and allowing access to location and availability data regarding assets (col 8, lines 49-58), this would inherently contain a "customer login account" or access to the data would not be restricted to the customer but would be available to anyone.

As to claim 47, the core business logic manages assets (claim 1).

As to claim 48, the system would inherently have a database that interfaces with the business applications, as information in a computer is stored in a database and computers store asset information and location thereof.

As to claim 49, the prior art discloses mapping (col 5, lines 39-44) and text messaging applications (col 19, lines 33-34 and lines 40-47).

As to claim 50, the business applications further include work order management, dispatching applications(claim 1), it would inherently be responsive to creation of a job site (or no new jobs could be entered), the mapping application as discussed keeps track of the vehicle's location in relation to the work site (either on or off site).

As to claim 51, the vehicles are disclosed as having a sensor only device (claim 1) and to have a short range wireless interface (fm radio, fig 1).

As to claim 54, the system is disclosed as communicating between the vehicle and transmitting calls from others of the applications (such as, starting the pour as claimed in claim 1).

Art Unit: 3629

As to claim 55, the system is disclosed as reporting location, speed and heading (as is inherent in GPS receivers, as speed is a function of time and distance traveled and heading would be shown as the GPS updates position data).

As to claims 63,75 the job site location is stored and designated by work order management and dispatching applications (as these work with the system as disclosed in claim 1) and further sending stored job site location information (dispatch) and transmitting data via the wireless gateway (fig 1) indicative of events sensed by the vehicle sensors (claim 1).

As to claim 64, the information is further disclosed as being sent by a short range wireless interface (FM radio, 12 in fig 1).

As to claim 56, it would be inherent that this information is stored as the information is sent and saved (claim 1).

As to claim 58, there is further means for guaranteeing delivery of the reports (DGPS correction data packets).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3629

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2,5,6,12,13,16-18,21,23,26,27,33,39,40,43,45,57,74,77 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coffee.

Coffee discloses a system as discussed above.

As to claims 2,5,6,18,23,26,27,33,39,40 GPS receivers work wirelessly and are well known in the art to be handheld, therefore, it would have been obvious to one of ordinary skill in the art to use a handheld GPS receiver as they would not need expensive installation into vehicles. The GPS would be a handheld portable device and a combined navigation (Global Positioning System) and sensor device (it detects a satellite).

As to claim 12, the handheld GPS would inherently know where it is and therefore, it would have means for detecting arrival at and departure from a site.

As to claim 13, it is shown that the GPS reports location and therefore, it would inherently report the information it has as to location.

As to claims 21,43, XML is well known in the art and therefore, provides no patentable distinction.

Art Unit: 3629

As to claim 45, the process is shown to use the Internet (20 in fig 1) and therefore, it would be obvious to one of ordinary skill in the art to use a website for correlating information as this would store it in an easily accessible site.

As to claim 57, the information would be inherent in the data collected by a GPS receiver. It would have been obvious to one of ordinary skill in the art to track this information as the assets listed in the patent are cement mixer trucks, which are well known to be large, heavy and therefore difficult to drive and an accident with such a truck could cause an enormous amount of damage, both costly in insurance and in good will as accidents can hurt potential customers.

As to claim 74, it would be obvious to get new map software as new roads are continually being built and a construction company would want to keep its records up to date as it would generally be dispatched to new roads to build the houses that would be built on the new roads.

As to claim 77, it is shown that the reporting time is limited (abstract lines 17-19), it would be obvious to one of ordinary skill in the art to notify the asset that an error occurred.

As to claim 80, it would be inherent that this data would be sent to the central computer and to track it and use it would be obvious to be more efficient.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US PAT 6,373,430 to Beason et al., Beason et al. disclose a handheld GPS receiver.

Art Unit: 3629

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF 

3/21/04

JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600